IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No.5189 of 2006
Date of Decision: 23.11.2006

Gurnaib Singh and others.

..... Appellants

Versus

Ajmer Kaur and another.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Rajesh Bhateja, Advocate for the appellants.

....

Mahesh Grover,J.

This is an appeal preferred by the driver, registered owner and subsequent purchaser of the offending vehicle, i.e. Mini Bus No.PB-13-J-9348 against award dated 1.3.2006 of Motor Accident Claims Tribunal, Moga (hereinafter described as `the Tribunal') passed in M.A.C.T. Case No.13 of 3.3.2005.

An accident is said to have taken place on 11.7.2004 in which a 23 years old young man, namely, Rachhpal Singh son of Karam Singh,

resident of Ransih Kalan,Tehsil Nihal Singh Wala, District Moga, lost his life. The deceased along with others was going from Nihal Singh Wala to his village in a jeep bearing No. AMK-1409 from which one Manjinder Singh was to be dropped near Ice Factory. When the jeep stopped, the deceased came out thereof and stood on the left side of the road. In the meantime, the offending vehicle being driven by its driver rashly and negligently came from the side of Dhurkot and struck against Rachhpal Singh as a result of which he received multiple injuries and subsequently died. On a claim petition having been filed by the claimants, who are parents of Rachhpal Singh, the Tribunal awarded a sum of Rs.2,49,500/- along with interest at the rate of 9% per annum keeping in view the relevant factors, such as, the age, his potential to earn and the dependents of the deceased.

Learned counsel for the appellants has assailed the award of the Tribunal by contending that the accident had not been caused with the bus in question and rather, the deceased fell down from the running jeep which was carrying a number of persons and was being plied pursuant to some election which was scheduled for that day. That apart, the issue of quantum of compensation was also contested.

We have heard the learned counsel for the appellants and have perused the impugned award.

There is no evidence adduced by the appellants to rebut the version as given by the claimants. Rather, RW5-Gurnaib Singh, (appellant no.1 herein) deposed that on 11.7.2004, he was not driver on the bus in question. However, as observed by the Tribunal, it is he, who had driven

away the offending vehicle after committing the accident. The First Information Report was lodged on 12.7.2004 as initially the deceased had sustained injuries and was taken to Civil Hospital, Nihal Singh Wala from where he was shifted to a hospital at Moga. In the absence of any evidence regarding the version as raised by the appellants, there is no option left but to agree with the findings recorded by the Tribunal.

In so far as the quantum of compensation awarded by the Tribunal is concerned, the deceased, who was 23 years of age, had studied up to 12th standard and was running a grocery shop. Even though, there was no evidence to this effect, yet, considering the fact that he was able-bodied healthy young man, the Tribunal assessed the monthly income of the deceased at Rs.3000/- and the dependency at Rs.2000/- per month after deducting 1/3rd thereof as his personal expenses. The multiplier of `10' was applied to arrived at a figure of Rs.2,40,000/-. Rs.9500/- were granted on account of general damages covering the funeral expenses etc. The award, under these circumstances, in a death case of a young unmarried man cannot be termed as excessive.

For the reasons mentioned above, the appeal, being devoid of any merit, is dismissed in limine.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

November 23,2006
"SCM"